

# JAPAN 2018 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

Japan has a parliamentary government with a constitutional monarchy. Shinzo Abe, leader of the Liberal Democratic Party, became prime minister in 2012. Lower House elections in October 2017, which Prime Minister Abe's party won with a large majority, were considered free and fair.

Civilian authorities maintained effective control over the security forces.

A human rights concern was criminal libel laws, although there was no evidence the government abused these laws to restrict public discussion during the reporting.

The government enforced laws prohibiting human rights abuses and prosecuted officials who committed them.

### **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

#### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

There were no reports that the government or its agents committed arbitrary or unlawful killings.

#### **b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities.

#### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

The law prohibits such practices, and there were no reports that government officials employed them.

The government continued to deny death-row inmates advance information about the date of execution and notified family members of executions after the fact. The government held that this policy spared prisoners the anguish of knowing when they were going to die. Some respected psychologists supported this reasoning; others demurred.

Authorities also regularly hold prisoners condemned to death in solitary confinement until their execution but allowed visits by family, lawyers, and others. The length of such solitary confinement varied from case to case and may extend for several years. Prisoners accused of crimes that could lead to the death penalty were also held in solitary confinement before trial, according to a nongovernmental organization (NGO) source.

National Public Safety Commission regulations prohibit police from touching suspects (unless unavoidable), exerting force, threatening them, keeping them in fixed postures for long periods, verbally abusing them, or offering them favors in return for a confession. The Japan Federation of Bar Associations asserted that authorities continued illegal or undue interrogations in some cases.

The Ministry of Defense reported on October 19 that it disciplined 114 members of the Japanese Self-Defense Forces (JSDF) from April 2017 through March 2018 for arbitrarily punishing other JSDF members, stating the Ministry of Defense and JSDF will continue to take measures to prevent recurrences.

### **Prison and Detention Center Conditions**

Prison conditions generally met international standards, although some lacked adequate medical care and sufficient heating in the winter or cooling in the summer, and some facilities were overcrowded.

Physical Conditions: The Ministry of Justice reported that as of the end of 2016 (most recent data available), one (a women's prison) of 76 prison facilities was beyond capacity. Authorities held juveniles younger than age 20 separately from adults in prisons and regular detention centers.

A male inmate died of heatstroke on July 24 in Nagoya Prison during a heat wave that saw record high temperatures. There was no air conditioner in his cell. The Justice Ministry stated on July 27 that all correctional institutions were taking proper counterheatstroke measures. The Japan Federation of Bar Associations called on the Ministry of Justice in August to install air conditioners immediately in most prisons that lacked them to protect the life of inmates.

In most institutions, extra clothing and blankets provided instead of heating were insufficient to protect inmates against cold weather, according to some local NGOs. Foreign prisoners in the Tokyo area continued to present chilblains-

affected fingers and toes of varying severity resulting from long-term exposure to cold.

From April 2016 through March 2017, independent inspection committees documented abusive language by prison officers toward inmates, as well as inadequate medical treatment and sanitation. According to the Ministry of Justice, in 2017 the number of doctors working for correctional institutions increased by 21 to 275, but remained more than 20 percent short of the full staffing level. Police and prison authorities were slow to provide treatment for mental illness and have no protocol for offering psychiatric therapy. Foreign observers also noted that dental care was minimal, and access to end-of-life comfort or palliative care was lacking.

Administration: While authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of allegations of problematic conditions, they provided the results of such investigations to prisoners in a letter offering little detail beyond a final determination. While there was no prison ombudsman, independent committees (see below, “Independent Monitoring”) played the role of an ombudsman.

Independent Monitoring: The government generally allowed visits by NGOs and international organizations.

Prison management regulations stipulate that independent committees inspect prisons and detention centers operated by the Ministry of Justice and detention facilities operated by police. Authorities permitted the committees, which include physicians, lawyers, local municipal officials, and local citizens, to interview detainees without the presence of prison officers.

By law third-party inspection committees also inspected immigration detention facilities, and their recommendations generally received serious consideration.

Domestic and international NGOs and international organizations continued to note that this process failed to meet international prison inspection standards. As evidence, they cited the Justice Ministry’s control of all logistical support for the inspection committees, the use of ministry interpreters during interviews with detainees, and a lack of transparency about the composition of the committees.

#### **d. Arbitrary Arrest or Detention**

The law prohibits arbitrary arrest and detention. Civil society organizations reported on ethnic profiling and surveillance of foreign Muslims by the police, according to the August report by the UN Committee on the Elimination of Racial Discrimination.

### **Role of the Police and Security Apparatus**

The National Public Safety Commission, a cabinet-level entity, oversees the National Police Agency (NPA), and prefectural public safety commissions have responsibility for local police forces. The government had effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year. Some NGOs criticized local public safety commissions for lacking independence from or sufficient authority over police agencies.

### **Arrest Procedures and Treatment of Detainees**

Authorities apprehended persons openly with warrants based on evidence and issued by a duly authorized official and brought detainees before an independent judiciary.

The law allows detainees, their families, or representatives to request that the court release an indicted detainee on bail. Bail is not available prior to indictment. NGOs stated that, although the practice is illegal, interrogators sometimes offered shortened or suspended sentences to a detainee in exchange for a confession.

Suspects in pretrial detention are legally required to face interrogation. NPA guidelines limit interrogations to a maximum of eight hours and prohibit overnight interrogations. Preindictment detainees have access to counsel, including at least one consultation with a court-appointed attorney, if required; counsel, however, is not allowed to be present during interrogations.

The law allows police to prohibit detainees from meeting with persons other than counsel and a consular officer (in the case of foreign detainees) if there is probable cause to believe that the suspect may flee or may conceal or destroy evidence (see section 1.d., Pretrial Detention). Many detainees, including most charged with drug offenses, were subject to this restriction before indictment, although some were permitted visits from family members in the presence of a detention officer. There is no legal connection between the type of offense and the length of time authorities may deny a detainee visits by family or others. Those detained on drug

charges, however, were often denied such visits longer than other suspects, since prosecutors worried that communications with family or others could interfere with investigations.

The Japan Federation of Bar Associations continued to allege that suspects confessed under duress, mainly during unrecorded interrogations, calling for recording entire interrogations for all cases. Prosecutors' offices and police increasingly recorded entire interrogations for heinous criminal cases, cases involving suspects with intellectual or mental disabilities, and other cases on a trial basis; however, recording was not mandatory, and there was no independent oversight of this practice.

Police inspection offices imposed disciplinary actions against some violators of interrogation guidelines, although the NPA did not release related statistics.

Pretrial Detention: Authorities usually held suspects in police-operated detention centers for an initial 72 hours prior to indictment. By law such detention is allowed only when there is probable cause to suspect that a person has committed a crime and is likely to conceal or destroy evidence or flee, but it was used routinely. After interviewing a suspect at the end of the initial 72-hour period, a judge may extend preindictment custody for up to two consecutive 10-day periods. Prosecutors routinely sought and received these extensions. Prosecutors may also apply for an additional five-day extension in exceptional cases, such as insurrection, foreign aggression, or violent public assembly.

Because judges customarily granted prosecutors' requests for extensions, pretrial detention, known as *daiyou kangoku* (substitute prison), usually continued for 23 days. NGOs reported the practice of detaining suspects in *daiyou kangoku* continued. NGOs and foreign observers continued to report that access to persons other than their attorneys and, in the case of foreign arrestees, consular personnel, was denied to some persons in *daiyou kangoku*. Nearly all persons detained during the year were held in *daiyou kangoku*. Beyond *daiyou kangoku*, extended pretrial detention of foreign detainees was a problem; examples included one person held more than 27 months (as of September) and several held for more than a year without trial. In these cases, prosecutors changed multiple times, trial dates were rescheduled and delayed, and prosecutors continued to request "additional time" to investigate matters that, according to the defendant's counsel, did not warrant the trial's further delay or additional preparatory pretrial meetings, which are common for jury system cases.

### **e. Denial of Fair Public Trial**

The law provides for an independent judiciary, and the government generally respected judicial independence and impartiality.

#### **Trial Procedures**

The law provides the right to a fair and public trial, and an independent judiciary generally enforced this right. Defendants are presumed innocent until proven guilty, but NGOs and lawyers continued to question whether they were in fact presumed innocent during the legal process. On October 3, the Hiroshima High Court's Okayama Branch acquitted a woman who was indicted in 2017 for property damage, stating there was no proof of the crime and dismissing a witness's testimony as unreliable. The accused woman later told a media outlet the police and prosecutors had forced her to confess to the false accusation. The government continued to assert convictions were not based primarily on confessions and that interrogation guidelines stipulate that suspects may not be compelled to confess to a crime.

Defendants have the right to be informed promptly and in detail of charges against them. Each charged individual has the right to a trial without undue delay (although foreign observers noted trials may be delayed indefinitely for mentally ill prisoners, and extended pretrial detention of foreign detainees was a problem); to access to defense counsel, including an attorney provided at public expense if indigent; and, to cross-examine witnesses. There is a lay-judge (jury) system for serious criminal cases, and defendants may not be compelled to testify against themselves. Authorities provided free interpretation services to foreign defendants in criminal cases. Foreign defendants in civil cases must pay for interpretation, although a judge may order the plaintiff to pay the charges in accordance with a court's final decision.

Defendants have the right to appoint their own counsel to prepare a defense, present evidence, and appeal. The court may assist defendants in finding an attorney through a bar association. Defendants may request a court-appointed attorney at state expense if they are unable to afford one.

According to some independent legal scholars, trial procedures favor the prosecution. Observers said a prohibition against defense counsel's use of electronic recording devices during interviews with clients undermined counsel effectiveness. The law also does not require full disclosure by prosecutors unless

the defending attorney satisfies difficult disclosure procedure conditions, which could lead to the suppression of material favorable to the defense.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

### **Civil Judicial Procedures and Remedies**

There is an independent and impartial judiciary in civil matters. Individuals have access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation. There are both administrative and judicial remedies for alleged wrongs.

### **f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence**

The law prohibits such actions, and there were no reports that the government failed to respect these prohibitions.

## **Section 2. Respect for Civil Liberties, Including:**

### **a. Freedom of Expression, Including for the Press**

The independent press and a functioning democratic political system sustained freedom of expression in the reporting year, although an international group of journalists, Reporters Without Borders, commented, “journalists find it hard put to fully play their role as democracy’s watchdog because of the influence of tradition and business interests.” The constitution provides for freedom of speech and press, and the government respected these freedoms.

Freedom of Expression: According to media and NGO reports, incidents of hate speech against minorities and their defenders, in particular, on the internet, grew. The national law on hate speech applies only to discriminatory speech and behavior directed at those who are not of Japanese heritage and is limited to educating and raising public awareness among the general public against hate speech; it does not carry penalties. Prosecutors have instead used another law on libel to prosecute an extremist group for hate speech, as discussed below. Additionally, on the local-government level, Osaka City and Kyoto Prefecture, where nationalist groups have frequently staged public anti-Korea events near

“Korea Town” neighborhoods, as well as Kawasaki City and Tokyo Prefecture, have passed their own ordinances or guidelines to regulate hate speech.

In April the Kyoto Prefectural Prosecutors’ Office indicted a former Zaitokukai (an ultranationalist organization) senior official, Hitoshi Nishimura, on libel charges for making derogatory online and public statements about the North Korea-affiliated Chosen School in Kyoto. Attorneys for the school’s owner welcomed the prosecutors’ decision to pursue a defamation charge under the Penal Code, which carries a heavier sentence than civil charges levied against other Zaitokukai members following similar incidents in 2009.

Press and Media Freedom: While no such cases have ever been pursued, the law enables the government to prosecute those who publish or disclose government information that is a specially designated secret. Those convicted face up to five years’ imprisonment with work and a fine of not more than five million yen (\$44,000).

NGOs reported nationalist groups used social media to harass journalists deemed antigovernment or unpatriotic. In June 2017 the UN special rapporteur on the right to freedom of opinion and expression reported “significant worrying signals” that government pressure on media outlets caused journalists to self-censor their reporting. The government vigorously contested the UN report, with a senior official telling the media, “freedom of expression and the right to know are fully protected under the Constitution of Japan. The government has never illegally applied pressure on the media. This [allegation] is completely untrue.”

Censorship or Content Restrictions: Media expressed a wide variety of views without overt restriction; reporters broke a number of stories that were strongly critical of members of the government. Reporters Without Borders’ 2018 *World Press Freedom Index* commented that the system of “*kisha*” (reporter) clubs may encourage self-censorship. These clubs are established in a variety of organizations, including ministries, and may block nonmembers, including freelance and foreign reporters, from covering the organization.

Libel/Slander Laws: Libel is a criminal as well as civil offense. The law does not accept the truthfulness of a statement in itself as a defense. There is no evidence the government abused these laws to restrict public discussion during the year.

## **Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications without appropriate legal authority. The internet was widely accessible and used.

### **Academic Freedom and Cultural Events**

In March, at the request of national legislators from the Liberal Democratic Party, the Ministry of Education, Culture, Sports, Science, and Technology (MEXT) sent queries to the Nagoya Municipal Education Board about the content and background of a February speech to a junior high school class. The speaker, a former MEXT vice minister, characterized the ministry's intervention as exceedingly rare and likely constituting improper control of education prohibited by the education basic law. MEXT denied the assertion, saying the inquiry was made under a different law pertaining to local education administration and did not constitute improper control of education.

The Ministry of Education's approval process for history textbooks, particularly its treatment of the country's 20th century colonial and military history, was a subject of controversy.

### **b. Freedoms of Peaceful Assembly and Association**

The law provides for freedom of assembly and association, and the government generally respected these rights.

### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/religiousfreedomreport/](http://www.state.gov/religiousfreedomreport/).

### **d. Freedom of Movement**

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, asylum seekers, stateless persons, and other persons of concern.

## **Internally Displaced Persons (IDPs)**

The government generally provided adequate shelter and other protective services in the aftermath of the 2011 earthquake, tsunami, and nuclear power plant disaster in Fukushima Prefecture and sought to provide permanent relocation or reconstruction options.

## **Protection of Refugees**

Access to Asylum: The law provides for granting asylum or refugee status, and the government has established a system for providing protection to refugees. The Ministry of Justice introduced revised screening procedures for refugee applications on January 15 to promote granting refugee status to genuine applicants promptly while also curbing abuse of the application process. As a result, the number of approved applications from January through June, including the approval of two previously denied applications, exceeded the number of approvals granted during all of 2017. In 2017 there were 19,629 applications, 20 of which were approved (0.1 percent). From January through June 2018, the government received 5,586 applications, 22 of which were approved (0.4 percent).

Refugee and asylum applicants who are minors or applicants with disabilities may ask lawyers to participate in their first round of hearings before refugee examiners. UNHCR said there were no such cases during the year. As government-funded legal support was not available for most refugee and asylum seekers requesting it, the Federation of Bar Associations continued to fund a program that provided free legal assistance to those applicants who could not afford it.

The Ministry of Justice, the Federation of Bar Associations, and the NGO Forum for Refugees Japan continued to cooperate to implement the Alternatives to Detention project (ATD) to provide accommodation, casework, and legal services for individuals who arrived at Narita, Haneda, Chubu, and Kansai airports, received temporary landing or provisional stay permission, and sought refugee status. Government-subsidized civil organizations and donations fund the ATD.

The government accepted 22 Burmese from five families on October 4 under its third-country resettlement program for Burmese people, which the government has continued since 2010 as the first Asian country to become a resettlement country.

Freedom of Movement: Civil society groups said the indefinite detention of asylum seekers remained a problem. UNHCR said refugee applicants should not be detained without due process and that children should not be detained.

Employment: Applicants for refugee status normally may not work unless they have valid short-term visas. They must apply for permission to engage in income-earning activities before the visas expire. In the interim before approval, the Refugee Assistance Headquarters, a section of the government-funded Foundation for the Welfare and Education of the Asian People, provided small stipends to some applicants who faced financial difficulties.

Access to Basic Services: Refugees continued to face the same discrimination patterns sometimes seen by other foreigners: reduced access to housing, education, and employment. Except for those who met right-to-work conditions, individuals whose refugee applications were pending or on appeal did not have the right to receive social welfare. This status rendered them completely dependent on overcrowded government shelters, illegal employment, or NGO assistance.

In 2017, in coordination with UNHCR, the government established a scholarship program allowing 100 Syrian refugees to begin postgraduate studies in Japan over the next five years. The government guaranteed the students protection until employment or further study opportunities become available, either in Japan or elsewhere. Immediate family may accompany the students, and tuition and living expenses will be covered by Japanese International Cooperation Agency.

Temporary Protection: The government provided temporary protection to 45 individuals in 2017 and 21 individuals from January through June who may not qualify as refugees after introducing the revised screening procedures.

### **Section 3. Freedom to Participate in the Political Process**

The law provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

#### **Elections and Political Participation**

Recent Elections: A snap election for the Lower House of the Diet called by the government in October 2017 was free and fair. Prime Minister Abe was confirmed in office when his Liberal Democratic Party won 47.8 percent of the vote in single-

seat districts and 33.2 percent of the proportional representation system, taking 283 of the 465 seats in the Lower House of parliament.

Participation of Women and Minorities: No laws limit participation of women and minorities in the political process. Women voted at rates equal to or higher than men did; in national elections since the late 1960s, women have an absolute majority of voters, according to data by the Internal Affairs and Communications Ministry. Women, however, have not been elected to office, at any level, at rates reflecting this or equivalent to rates in other developed democracies.

In May the country implemented a law to promote women's participation in electoral politics. The law calls on political parties to make their best efforts to have equal numbers of male and female candidates on the ballot in national and local elections. Women held 47 of 465 seats in the Diet's Lower House and 50 of 242 seats in the Upper House after the October 2017 Lower House election. Women held one of the 20 seats in the cabinet following an October cabinet shuffle but none of the four senior posts in the ruling Liberal Democratic Party. At the end of the year, there were three female governors in the 47 prefectures.

Because some ethnic minority group members are of mixed heritage and did not self-identify, it was difficult to determine their numbers in the Diet, but a number were represented.

#### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials, and the government generally implemented the law effectively. There were documented cases of corruption by officials.

Independent academic experts stated that ties among politicians, bureaucrats, and businesspersons were close, and corruption remained a concern. NGOs continued to criticize the practice of retired senior public servants taking high-paying jobs with private firms that relied on government contracts. There were investigations into financial and accounting irregularities involving government officials.

Several government agencies were involved in combating corruption, including the NPA and the National Tax Administration Agency. In addition, the Fair Trade Commission enforces antimonopoly law to prevent unreasonable restraint of trade and unfair business practices, such as bid rigging. The Japan Financial Intelligence Center is responsible for preventing money laundering and terrorist financing. The

National Public Services Ethics Board polices public servants suspected of ethics violations. The Board of Audit monitors the accounts of corporations in which the government is a majority shareholder. Anticorruption agencies generally operated independently, effectively, and with adequate resources, although some experienced staffing shortfalls.

Corruption: Press reported on several convictions in 2018 in corruption cases for crimes including bribery and fraud. The Oita District court convicted a former Oita Prefectural Government official on December 18 for taking bribes in return for awarding a private company an order of public work.

Financial Disclosure: The law requires members of the Diet to disclose publicly their income and assets (except for ordinary savings), including ownership of real estate, securities, and transportation means. The law requires governors, prefectural assembly members, mayors, and assembly members of 20 major cities to disclose their incomes and assets based on their local ordinances but does not require assembly members of the remaining approximately 1,720 municipalities to do the same. There are no penalties for false disclosure. The law does not apply to nonelected officials. Separately, the cabinet-approved code provides that cabinet ministers, senior vice-ministers, and parliamentary vice-ministers publicly disclose their, their spouses', and their dependent children's assets.

## **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights**

A number of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were usually cooperative and responsive to their views.

Government Human Rights Bodies: The Justice Ministry's Human Rights Counseling Office had 311 offices across the country. Approximately 14,000 volunteers fielded questions in person, by telephone, or on the internet and provided confidential consultations. Counselling in any of six foreign languages was available in 50 offices. These consultative offices fielded queries, but they do not have authority to investigate human rights violations by individuals or public organizations, provide counsel, or mediate. Municipal governments had human rights offices that dealt with a range of human rights problems.

## **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

## Women

Rape and Domestic Violence: The law criminalizes various forms of rape, regardless of the gender of a victim. The law also criminalizes custodial rape of a minor younger than age 18. The law does not deny spousal rape, but no court has ever ruled on such a case, except in situations of marital breakdown (i.e., formal or informal separation, etc.). The law mandates a minimum sentence of five years in prison. In the past, courts interpreted the law to mean that physical resistance by the victim is necessary to find that a sexual encounter was rape. Domestic violence is also a crime for which victims may seek restraining orders. Convicted assault perpetrators face up to two years' imprisonment or a fine of up to 300,000 yen (\$2,600), convicted offenders who caused bodily injury faced up to 15 years' imprisonment or a fine up to 500,000 yen (\$4,400), and protective orders violators faced up to one year's imprisonment or a fine of up to one million yen (\$8,800).

NGOs and legal experts pointed out a lack of training for judges, prosecutors, and lawyers about sexual crimes and victims.

Rape and domestic violence are believed to be significantly underreported crimes, although no recent data are available. Observers attributed women's reluctance to report rape to a variety of factors, including a lack of victim support, potential secondary victimization through the police response, and court proceedings that lacked understanding for rape victims.

Victims of abuse by domestic partners, spouses, and former spouses could receive protection at shelters.

Sexual Harassment: The law does not criminalize sexual harassment but includes measures to identify companies that fail to prevent it. Prefectural labor offices and the Ministry of Health, Labor, and Welfare provided these companies with advice, guidance, and recommendations. Companies that fail to comply with government guidance may be publicly identified, but the government has not publicized any company for sexual harassment since 2015, when a private hospital was identified for dismissing a woman employee due to pregnancy. Sexual harassment in the workplace persisted. In the first survey of its kind, in 2016 the ministry reported that 30 percent of women in full- and part-time employment reported being sexually harassed at work. Among full-time workers, the figure was 35 percent. In April a senior career official at the Finance Ministry resigned after allegations

that he sexually harassed a female journalist and following public criticism that the ministry initially mishandled the matter. The government has since released a set of measures to prevent sexual harassment, including requiring all senior national government officials to take mandatory training courses, as well as setting up a consultation mechanism in each ministry and agency where the general public can report sexual harassment (see section 7.d.).

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization.

From January to October, seven individuals, both female and male, who were involuntarily sterilized from 1948 to 1996 under a policy that targeted people with disabilities under the defunct Eugenic Protection Law, sought damages from the government. The Ministry of Health, Labor, and Welfare estimated approximately 25,000 people underwent sterilization surgeries under that law.

Discrimination: The law prohibits gender discrimination and generally provides women the same rights as men. The Gender Equality Bureau in the Cabinet Office continued to examine policies and monitor developments.

Despite these policies, NGOs continued to allege that implementation of antidiscrimination measures was insufficient, pointing to discriminatory provisions in the law, unequal treatment of women in the labor market (see section 7.d.), and low representation of women in high-level elected bodies. Tokyo Medical University admitted in August that it had deliberately altered entrance exam scores for more than a decade to restrict the number of female students and ensure more men became doctors. In response, MEXT undertook a study of all medical universities in Japan, 81 in total, to examine if any others had altered entrance exam results to limit female students. MEXT concluded that 10 medical universities had altered entrance exam results to limit female students and instructed the universities to rectify the inappropriate practice.

NGOs continued to urge the government to allow married couples a choice of surnames.

## **Children**

Birth Registration: The law grants citizenship at birth to: a child of a Japanese father who either is married to the child's mother or recognizes his paternity; a child of a Japanese mother; or, a child born in the country to parents who are both

unknown or are stateless. The law requires registration within 14 days after in-country birth or within three months after birth abroad, and these deadlines were generally met. Individuals were allowed to register births after the deadline but were required to pay a fine.

The law requires birth entries in the family registry to specify whether a child was born in or out of wedlock, but the law no longer denies full inheritance rights to children born out of wedlock. The law presumes that a child born within 300 days of a divorce is the divorced man's child, resulting in the nonregistration of an unknown number of children.

Child Abuse: Reports of child abuse increased due to increased public awareness, according to the Ministry of Health, Labor, and Welfare. Sexual abuse of children by teachers was reported. Child assistance experts advocated the need for MEXT to actively share information on teachers involved in child molestation with the police to prevent further victimization of children in schools. The law provides for a simplified process to inspect homes where child abuse is suspected; requires child welfare offices to have legal, psychological, and medical experts on staff; allows more municipalities to have child welfare offices; and raised the age of eligibility for staying at public homes.

Early and Forced Marriage: The law stipulates that to marry, the male partner must be age 18 or older and the female partner 16 or older. A person younger than age 20 may not marry without at least one parent's approval. The Act to Partially Amend the Civil Code, which will create parity between men and women for the legal age to marry, setting it at 18 for both sexes, was promulgated in June 2018 and will come into force in 2022.

Sexual Exploitation of Children: Child prostitution is illegal, with penalties including prison sentences or fines. Statutory rape laws criminalize sexual intercourse with a girl younger than age 13, notwithstanding her consent. The penalty for statutory rape is not less than three years' imprisonment with mandatory labor, and the law was enforced. Additionally, national law and local ordinances comprehensively address sexual abuse of minors. Possession of child pornography is a crime. The commercialization of child pornography is illegal; the penalty is imprisonment with labor for not more than three years or a fine not exceeding three million yen (\$26,400), and police continued to crack down on this crime.

The continued practice of *enjo kosai* (compensated dating) and the existence of websites for online dating, social networking, and “delivery health” (a euphemism for call-girl or escort services) facilitated the sex trafficking of children and other commercial sex industries. The government’s interagency taskforce to combat child sex trafficking in *Joshi kosei* (or “JK” businesses)--dating services connecting adult men with underage girls--and in forced pornography continued to strengthen its crackdown on such businesses. As part of the taskforce’s efforts, police arrested 42 managers or customers of “JK” businesses while rescuing 25 minor victims from April to December 2017.

NGOs helping girls in “JK business” reported a link between these activities and the commercial sexual exploitation of children in prostitution.

The country was a site for the production of child pornography and the exploitation of children by traffickers.

In January police arrested and charged the head of an entertainment industry job-placement agency and the operator of a pornographic video-production company for inducing women and girls to engage in sexual intercourse for the purpose of profit--the first application of this criminal statute in more than 80 years. Nevertheless, the Public Prosecutor’s Office did not prosecute the suspects. No law addresses the unfettered availability of sexually explicit cartoons, comics, and video games, some of which depicted scenes of violent sexual abuse and the rape of children.

See the Department of State’s *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State’s *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data.html>.

### **Anti-Semitism**

No official statistics of the Jewish population in the country were available. According to a Jewish community representative, approximately 100 households are active members of the community. The representative reported there were rare protests by a handful of individuals that involved anti-Semitic speech.

## Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

## Persons with Disabilities

The Basic Act for Persons with Disabilities prohibits discrimination against persons with physical, intellectual, mental, or other disabilities affecting body and mind and bars infringement of their rights and interests on the grounds of disability in the public and private sectors. The law requires the public sector to provide reasonable accommodations and the private sector to make best efforts in employment, education, access to health care, or the provision of other services. The laws do not stipulate remedies for persons with disabilities who experience discriminatory acts nor do they establish penalties for noncompliance. Other law mandates that the government and private companies hire minimum proportions (2 percent) of persons with disabilities (including mental disabilities) or be fined. Disability rights advocates claimed that some companies preferred to pay the fine rather than hire persons with disabilities (see section 7.d.).

A government study released in August showed that 27 central government ministries and agencies had inflated their employment rates of persons with disabilities. Local municipalities also announced they had failed to meet hiring quotas of persons with disabilities. In response the government started accepting applications in December for the first national public-service examination specifically for persons with disabilities for hiring in April 2019.

Accessibility laws mandate that new construction projects for public use must include provisions for persons with disabilities. The government may grant low interest loans and tax benefits to operators of hospitals, theaters, hotels, and other public facilities if they upgrade or install features to accommodate persons with disabilities.

Nonetheless, persons with disabilities faced limited access to some public-sector services. Abuse of persons with disabilities was a serious concern. Persons with disabilities around the country experienced abuse by family members, care-facility employees, or employers. Private surveys indicated discrimination against and sexual abuse of, women with disabilities. Nagano District Court's Matsumoto Branch ruled on May 23 in a civil suit that a former employee of a welfare facility

for persons with disabilities, Ensemble Kai, had illegal indecent contact with a woman with intellectual disabilities at the facility, ordering the man and the facility to pay compensation of 3.3 million yen (\$29,000).

While some schools provided inclusive education, children with disabilities generally attended specialized schools.

Mental health professionals criticized as insufficient the government's efforts to reduce the stigma of mental illness and inform the public that depression and other mental illnesses are treatable and biologically based.

### **National/Racial/Ethnic Minorities**

Minorities experienced varying degrees of societal discrimination.

The law specifically addresses discrimination against Buraku (the descendants of feudal-era outcasts). It obligates national and local governments to study discrimination against Buraku, implement awareness education, and enhance the counseling system.

Buraku advocacy groups continued to report that, despite socioeconomic improvements achieved by many Buraku, widespread discrimination persisted in employment, marriage, housing, and property assessment. While the Buraku label was no longer officially used to identify individuals, the family registry system could be used to identify them and facilitate discriminatory practices. Buraku advocates expressed concern that employers who required family registry information from job applicants for background checks, including many government agencies, might use this information to identify and discriminate against Buraku applicants.

Despite legal safeguards against discrimination, foreign permanent residents in the country and nonethnically Japanese citizens, including many who were born, raised, and educated in the country, were subjected to various forms of entrenched societal discrimination, including restricted access to housing, education, health care, and employment opportunities. Foreign nationals as well as "foreign looking" citizens reported they were prohibited entry, sometimes by signs reading "Japanese Only," to privately owned facilities serving the public, including hotels and restaurants. Although such discrimination was usually open and direct, NGOs complained of government failure to enforce laws prohibiting such restrictions.

Representatives of the ethnic Korean community said hate speech against them in public and on social networking sites continued. Additionally, there was no indication of increased societal acceptance of ethnic Koreans. Although authorities approved most naturalization applications, advocacy groups continued to complain about excessive bureaucratic hurdles that complicated the naturalization process and a lack of transparent criteria for approval. Ethnic Koreans who chose not to naturalize faced difficulties in terms of civil and political rights and regularly encountered discrimination in job promotions as well as access to housing, education, and other benefits.

Senior government officials publicly repudiated the harassment of ethnic groups as inciting discrimination and reaffirmed the protection of individual rights for everyone in the country.

### **Indigenous People**

Although the Ainu enjoy the same rights as all other citizens, Ainu persons reported cases of discrimination in the workplace, marriage, and schools, according to a 2017 Hokkaido Prefectural Government's Ainu Association survey of Ainu persons. The law emphasizes preservation of Ainu culture but lacks some provisions that Ainu groups have demanded, including national-level social welfare policies and educational grants, special representation in local and national governments, and a formal government apology for historical injustices. The government recognizes the Ainu as an indigenous ethnic group per a unanimous Diet resolution, but the recognition has no legal ramifications.

Although the government does not recognize the Ryukyu (a term that includes residents of Okinawa and portions of Kagoshima Prefecture) as indigenous people, it officially acknowledged their unique culture and history and made efforts to preserve and show respect for those traditions.

### **Acts of Violence, Discrimination, and Other Abuses Based on Sexual Orientation and Gender Identity**

No law prohibits discrimination based on sexual orientation or gender identity. There are no existing penalties associated with such discrimination, and no related statistics were available. The law allows transgender individuals to change their legal gender but only after receiving a diagnosis of sexual-identity disorder. Lesbian, gay, bisexual, transgender, and intersex (LGBTI) advocacy organizations reported no impediments to organization but some instances of bullying,

harassment, and violence. Stigma surrounding LGBTI persons remained an impediment to self-reporting of discrimination or abuse, and studies on bullying and violence in schools generally did not take into account the sexual orientation or gender identity of the persons involved.

A ruling Liberal Democratic Party (LDP) Diet member, Mio Sugita, wrote in a July article that LGBTI persons are “unproductive” as they do not give birth to children. After the article’s release, the LDP issued a statement saying that the party aimed for a diverse society, including LGBTI persons, and admonishing Sugita. The magazine subsequently ceased publication after an extensive public backlash against Sugita and the magazine, including from the disability community and prominent writers.

In October the Tokyo Prefectural Government, as host city of the 2020 Olympics and Paralympics, enacted a law that states, “the Tokyo Metropolitan Government, citizens, and enterprises may not unduly discriminate on the basis of gender identity or sexual orientation,” in order to realize the antidiscrimination Olympic Charter. An NGO, Japan Alliance for LGBT Legislation, publicly lauded the ordinance as the first-ever prefectural ordinance to ban discrimination against LGBTI persons, but it also expressed concern about its effectiveness due to the lack of a remedies clause.

### **HIV and AIDS Social Stigma**

No law prohibits discrimination against persons with HIV/AIDS, although nonbinding Ministry of Health, Labor, and Welfare guidelines state that firms should not terminate or fail to hire individuals based on their HIV status. Courts have awarded damages to individuals fired from positions due to that status.

Concern about discrimination against individuals with HIV/AIDS and the stigma associated with the disease, and fear of dismissal, prevented many persons from disclosing their HIV/AIDS status.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law provides for the right of private-sector workers to form and join unions of their choice without previous authorization or excessive requirements and protects their rights to strike and bargain collectively.

The law places limitations on the right of public-sector workers and employees of state-owned enterprises to form and join unions of their choice. Public-sector employees may participate in public-service employee unions, which may negotiate collectively with their employers on wages, hours, and other conditions of employment. Public-sector employees do not have the right to strike; trade union leaders who incite a strike in the public sector may be dismissed and fined or imprisoned. Firefighting personnel and prison officers are prohibited from organizing and collectively bargaining.

Workers in sectors providing essential services, including electric power generation and transmission, transportation and railways, telecommunications, medical care and public health, and the postal service must give 10 days' advance notice to authorities before organizing a strike. Employees involved in providing essential services do not have the right to collective bargaining.

The law prohibits antiunion discrimination and provides for the reinstatement of workers fired for union activities.

The government effectively enforced laws providing for freedom of association, collective bargaining, and legal strikes. Government oversight and penalties were generally sufficient to deter violations. In the case of a violation, a worker or union may lodge an objection with the Labor Committee, which may issue a relief order for action by the employer. A plaintiff may then take the matter to a civil court. If the court upholds the relief order and determines that a violation of that order has occurred, it may impose a fine, imprisonment, or both.

The government and employers generally respected freedom of association and the right to collective bargaining, but increasing use of short-term contracts undermined regular employment and frustrated organizing efforts. Collective bargaining was common in the private sector, although some businesses changed their form of incorporation to a holding company structure, not legally considered an employer, to circumvent employee protections under the law.

## **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced or compulsory labor.

Violations persisted and enforcement was lacking in some segments of the labor market, for example, in sectors where foreign workers were employed; however, in

general the government effectively enforced the law. Legal penalties for forced labor varied depending on its form, the victim(s), and the law that prosecutors used to prosecute such offenses. Not all forms of forced or compulsory labor were clearly defined by law, nor did they all carry penalties sufficient to deter violations. For example, the law criminalizes forced labor and prescribes penalties of up to 10 years' imprisonment, but it also allows for fines in lieu of incarceration. NGOs argued that reliance on multiple and overlapping statutes hindered the government's ability to identify and prosecute trafficking crimes, especially for cases involving forced labor with elements of psychological coercion.

Reports of forced labor continued in the manufacturing, construction, and shipbuilding sectors, largely in small- and medium-size enterprises employing foreign nationals through the Technical Intern Training Program (TITP). This program allows foreign workers to enter the country and work for up to five years in a de facto guest worker program that many observers assessed to be rife with vulnerabilities to trafficking and other labor abuses.

Workers in these jobs experienced restrictions on freedom of movement and communication with persons outside the program, nonpayment of wages, excessive working hours, high debts to brokers in countries of origin, and retention of identity documents. For example, women from Cambodia and China recounted long hours, poor living conditions, restricted freedom of movement, and nonpayment of wages while they were working in a Gifu textile factory. Workers were also sometimes subjected to "forced savings" that they forfeited by leaving early or being forcibly repatriated. For example, some technical interns reportedly paid up to one million yen (\$8,900) in their home countries for jobs and were reportedly employed under contracts that mandated forfeiture of those funds to agents in their home country if workers attempted to leave, both of which are illegal under the TITP. In 2017 the government established an oversight body, the Organization for Technical Intern Training (OTIT), which conducted on-site inspections of TITP workplaces. There is concern that the OTIT is understaffed, insufficiently accessible to persons who do not speak Japanese, and ineffective at prosecuting labor abuse cases.

Workers who entered the country illegally or who overstayed their visas were particularly vulnerable. NGOs maintained government oversight was insufficient.

Despite the prevalence of forced labor within the TITP, no case has ever led to a labor trafficking prosecution.

On December 8, the country enacted legislation that creates new categories of working visas to bring in more skilled and blue-collar workers and upgrades the Justice Ministry's Immigration Bureau to an agency that will oversee companies that accept foreign workers. NGOs expressed concern that the new law does not adequately safeguard against the potential for continued labor abuses, such as those that have been present in the TITP.

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

Children ages 15 to 18 may perform any job not designated as dangerous or harmful, such as handling heavy objects or cleaning, inspecting, or repairing machinery while in operation; however, they are prohibited from working late night shifts. Children ages 13 to 15 years may perform "light labor" only, and children younger than age 13 may work only in the entertainment industry.

The government effectively enforced these laws. Penalties for child labor violations included fines and imprisonment and were sufficient to deter violations.

Children were subjected to commercial sexual exploitation (see section 6, Children).

### **d. Discrimination with Respect to Employment and Occupation**

The law prohibits discrimination with respect to employment and occupation. The law does not explicitly prohibit discrimination with respect to employment and occupation based on religion, sexual orientation and/or gender identity, HIV-positive status, or language.

The law mandates equal pay for men and women; however, the International Labor Organization has noted the law's protection against such wage discrimination is too limited because it does not capture the concept of "work of equal value." The June revisions to the Part-timer Labor Law, Labor Contract Law and the Labor Dispatch Law, which passed as part of the "Workstyle Reform Package Bills," included provisions to obligate employers to treat regular and nonregular workers equally when 1) the job contents are the same and 2) the scope of expected changes to the job content and work location are the same. Enforcement regulations of the equal employment opportunity law also include prohibitions against policies or

practices that were adopted not with discriminatory intent but which have a discriminatory effect (called “indirect discrimination” in law) for all workers in recruitment, hiring, promotion, and changes of job type. Enforcement of these provisions was generally weak.

Revisions in 2017 to child-care and nursing-care leave laws offered greater flexibility in taking family-care leave by, for example, allowing employees to divide their permitted leave into three separate instances. The revisions also increased fixed-term contract workers’ eligibility for child-care leave. The revised employment law obligates employers to take measures to prevent what is known as *matahara* (maternity harassment). The law also allows parents to extend paternity/maternity leave by an additional six months if child-care facilities are not available, enabling parents to take leave for up to two years after a birth. The law requires national and local governments, as well as private-sector companies that employ at least 301 people, to analyze women’s employment in their organizations and release action plans to promote women’s participation and advancement.

The law mandates that both government and private companies hire at or above a designated minimum proportion of persons with disabilities (including mental disabilities). An April revision to the law increased the minimum hiring rate for the government from 2.3 percent to 2.5 percent and for private companies from 2.0 percent to 2.2 percent. The revision also stipulates that the minimum hiring ratio for private companies should be raised further to 2.3 percent before April 2021. By law companies with more than 200 employees that do not comply with requirements to hire minimum proportions of persons with disabilities must pay a fine per vacant position per month. Disability rights advocates claimed that some companies preferred to pay the mandated fine rather than hire persons with disabilities.

In cases of violation of the Equal Employment Opportunity Law, the Ministry of Health, Labor, and Welfare may request the employer report the matter, and the ministry may issue advice, instructions, or corrective guidance. If the employer does not follow the ministry’s guidance, the employer’s name may be publicly disclosed. If the employer fails to report or files a false report, the employer may be subject to a fine. Government hotlines in prefectural labor bureau equal employment departments handled consultations concerning sexual harassment and mediated disputes when possible.

There is no penalty for government entities failing to meet the legal minimum hiring ratio for persons with disabilities. In August a large number of ministries

and some regional governments admitted they overstated their ratio of employees with disabilities in fiscal year 2017. According to data released by the MHLW, the overall hiring rate for persons with disabilities in the central government was 2.5 percent and for the prefectural government was 2.65 percent as of June 2017. Many government entities, however, were suspected of overstating the figures. MHLW carried out a nationwide survey of all government entities in September to investigate the matter.

Women continued to express concern about unequal treatment in the workforce. Women's average monthly wage was approximately 73 percent of that of men in 2017.

Reports of employers forcing pregnant women to leave their jobs continued, although there are no recent data on this problem. In December media reported the case of a Vietnamese technical trainee who was told to have an abortion or quit her job.

The government encouraged private companies to report gender statistics in annual financial reports. The government also continued to increase child-care facilities.

In November 2017 the Japanese Trade Union Confederation released a survey on harassment and violence, which said more than 50 percent of respondents reported they had personally experienced or observed workplace harassment.

The MHLW said in 2017, the latest year for which such data were available, that the number of employers or supervisors who abused persons with disabilities fell 13.4 percent in the Japanese fiscal year ending in March. The decrease was attributed to a wider recognition in workplaces of a law aimed at combating abuse of workers with disabilities and to enforcement efforts by labor standards inspectors.

#### **e. Acceptable Conditions of Work**

The minimum wage ranged from 737 to 958 yen (\$6.50 to \$8.50) per hour, depending on the prefecture. The poverty line was 1.22 million yen (\$10,900) per year.

The law provides for a 40-hour workweek for most industries and, with exceptions, limits the number of overtime hours permitted in a fixed period. It mandates premium pay of no less than 25 percent for more than eight hours of work in a day,

up to 45 overtime hours per month. For overtime of between 45 and 60 hours per month, the law requires companies to “make efforts” to furnish premium pay greater than 25 percent. It mandates premium pay of at least 50 percent for overtime that exceeds 60 hours a month.

The June Workstyle Reform Package Bills included the first-ever legal cap on overtime work and established penalties, including fines and imprisonment, for violations. These provisions come into force in April 2019 for large companies and in April 2020 for small- and medium-sized companies. In principle, overtime work will be permitted only up to 45 hours per month and 360 hours per year. Even in the case of special and temporary circumstances, it must be limited to less than 720 hours per year and 100 hours per month (including holiday work), and the average hours of overtime work over a period of more than two months must be less than 80 hours (including holiday work). The reform package bills also included provisions to introduce the Highly Professional System (the Japanese version of a white-collar exemption), which would eliminate the requirement to pay any overtime (including premium pay for holiday work or late-night work) for a small number of highly skilled professionals earning an annual salary of more than approximately 10 million yen (\$89,400).

The government sets industrial safety and health (ISH) standards. Workers may remove themselves from situations that endanger health or safety without jeopardy to their employment.

The MHLW is responsible for enforcing laws and regulations governing wages, hours, and safety and health standards in most industries. The National Personnel Authority covers government officials. The Ministry of Economy, Trade, and Industry covers ISH standards for mining, and the Ministry of Land, Infrastructure, Transport, and Tourism is responsible for ISH standards in the maritime industry.

The Minimum Wage Law provides for a fine for employers who fail to pay a minimum wage, regardless of the number of employees involved or the duration of the violation. Other labor laws such as the Industrial Safety and Health Standards Law and the Labor Standards Law also provide for fines for employers who fail to comply with the laws. The number of labor inspectors was not sufficient to enforce compliance. In October 2017 a Tokyo court fined a major advertising agency 500,000 yen (\$4,460) for failing to prevent excessive overtime worked by its employees. This court decision followed the Tokyo Labor Bureau’s ruling in 2016 that determined that the 2015 death of a young woman was a case of *karoshi* (death by overwork), after records showed the employee booked 130 hours of

overtime in one month and slept just 10 hours per week. This finding against a major advertising agency brought renewed attention to the severe consequences of overwork and led to legislative changes to limit overtime work. Labor unions continued to criticize the government for failing to enforce the law regarding maximum working hours, and workers, including those in government jobs, routinely exceeded the hours outlined in the law.

In general the government effectively enforced applicable ISH law and regulations in all sectors. Penalties for ISH violations included fines and imprisonment and were generally sufficient to deter violations. While inspectors have the authority to suspend unsafe operations immediately in cases of flagrant safety violations, in lesser cases they may provide nonbinding *shidou* (guidance). MHLW officials frequently stated that their resources were inadequate to oversee more than 4.3 million firms.

Nonregular workers (which include part-time workers, fixed-term contract workers, and dispatch workers) made up approximately 37 percent of the labor force in 2017. They worked for lower wages and often with less job security and fewer benefits than career workers. Some nonregular workers qualified for various benefits, including insurance, pension, and training. Observers reported a rise in four- or five-year contracts and the termination of contracts shortly before the five-year mark, when employees may ask their employer to make them permanent. Workers in academic positions, such as researchers, technical workers, and teachers in universities, were eligible for 10-year contracts.

Reports of abuses in the TITP were common, including injuries due to unsafe equipment and insufficient training, nonpayment of wages and overtime compensation, excessive and often spurious salary deductions, forced repatriation, and substandard living conditions (also see section 7.b.). In addition, observers alleged that a conflict of interest existed, since the inspectors who oversee the TITP working conditions were employed by two ministries that are members of the interagency group administering the TITP. Some inspectors appeared reluctant to conduct investigations that could cast a negative light on a government program that business owners favored.

There were also reports of informal employment of foreign asylum seekers on provisional release from detention who did not have work permits. Such workers were vulnerable to mistreatment and did not have access to standard labor protections or oversight.

Falls, road traffic accidents, and injuries caused by heavy machinery were the most common causes of workplace fatalities. The MHLW also continued to receive applications from family members seeking the ministry's recognition of a deceased individual as a karoshi victim.